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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

STEVO DESIGN, INC., a Florida corporation;
STEVEN BUDIN, an individual; and ALAN
ROLLI, an individual,

Plaintiffs,

v.

SBR MARKETING LTD., a foreign
corporation; and BRIAN DANIELE, an
individual,

Defendants.

Case No.: 2:11-cv-00304-LRH-CWH

**PLAINTIFFS' MOTION TO COMPEL
BRIAN DANIELE'S INITIAL
DISCLOSURES**

Plaintiffs, Stevo Design, Inc., Steven Budin, and Alan Rolli (collectively "Plaintiffs"), by and through their counsel, Dickinson Wright PLLC, move to compel Brian Daniele ("Mr. Daniele") to provide initial disclosures.

DECLARATION OF COUNSEL

Jonathan M. A. Salls, Esq., states under the penalties of perjury of the State of Nevada and the United States of America:

1. I am an attorney-at-law admitted to practice in all courts of the State of Nevada. I represent the Plaintiffs in *Stevo Design, Inc. et al. v. SBR Marketing Ltd. et al.*, 2:11-CV-00304-LRH-CWH, pending in the United States District Court for the District of Nevada (the "Case").

1 I have personal knowledge of the facts set forth in this Declaration and could competently testify
2 regarding same if asked by the Court.

3 2. On June 30, 2011, Mr. Daniele participated in a conference call to discuss all the
4 issues addressed in Fed.R.Civ.P. 26(f). On that same day, Plaintiffs sent the Discovery Plan and
5 Scheduling Order to Mr. Daniele to seek Mr. Daniele's agreement to the Discovery Plan and
6 Scheduling Order. Mr. Daniele failed to respond.

7 3. On January 10, 2012, a letter was sent to Mr. Daniele via electronic mail, United
8 States mail, and Certified United States mail requesting Mr. Daniele's availability for a meet and
9 confer regarding Mr. Daniele's failure to provide initial disclosures pursuant to Fed.R.Civ.P.
10 26(a) and the Discovery Plan and Scheduling Order before the Court. (Exhibit 1.)

11 4. As of the filing of this Motion, Mr. Daniele has not provided any response to the
12 letter of January 10, 2012.

13 5. Plaintiffs' counsel has received no communication from Mr. Daniele since June
14 30, 2011.

15 Dated this 31st day of January, 2012.

16 By /s/ Jonathan M. A. Salls

17 JONATHAN M. A. SALLS
18 Nevada Bar No. 12085
19 City Center West
7201 West Lake Mead Boulevard, Suite 503
Las Vegas, Nevada 89128

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 Mr. Daniele filed Defendant Brian Daniele's Answer to the First Amended Complaint on
22 May 2, 2011. (Doc. No. 12.) On May 16, 2011, the Court ordered Mr. Daniele to file Mr.
23 Daniele's Certificate as to Interested Parties by May 26, 2011 (Doc. No. 14), which Mr. Daniele
24 failed to do. On June 10, 2011, the Court ordered Mr. Daniele to file Mr. Daniele's Certificate as
25 to Interested Parties by June 20, 2011 (Doc. No. 15), which Mr. Daniele failed to do.

26 On June 30, 2011, Mr. Daniele participated in a conference call to discuss all the issues
27 addressed in Fed.R.Civ.P. 26(f). On that same day, Plaintiffs sent the Discovery Plan and
28 Scheduling Order to Mr. Daniele to seek Mr. Daniele's agreement to the Discovery Plan and
Scheduling Order. Mr. Daniele failed to respond. On July 1, 2011, Plaintiffs filed the Discovery

1 Plan and Scheduling Order. (Doc. No. 19.) On July 6, 2011, the Court approved the Discovery
 2 Plan and Scheduling Order. (Doc. No. 20.) Mr. Daniele failed to provide initial disclosures
 3 pursuant to Fed.R.Civ.P. 26(a) and the Discovery Plan and Scheduling Order.

4 On January 10, 2012, Plaintiffs attempted to schedule a meet and confer with Mr. Daniele
 5 in relation to Mr. Daniele's failure to provide initial disclosures pursuant to Fed.R.Civ.P. 26(a)
 6 and requested Mr. Daniele's availability with respect to same. (Exhibit 1.) Mr. Daniele failed to
 7 provide any response to Plaintiffs' request. Plaintiffs have not received any communication from
 8 Mr. Daniele since June 30, 2011.

9 Mr. Daniele's failure to make timely and appropriate Fed.R.Civ.P. 26(a) disclosures
 10 warrants an order by the Court compelling such disclosure and imposing sanctions on Mr.
 11 Daniele. Federal Rule of Civil Procedure 37(a)(3)(A) provides that "[i]f a party fails to make a
 12 disclosure required by Rule 26(a), any other party may move to compel disclosure and for
 13 appropriate sanctions." Given that Mr. Daniele has refused to make required disclosures under
 14 Fed.R.Civ.P. 26(a), and even communicate with Plaintiffs with respect to same, Plaintiffs
 15 respectfully request that the Court order Mr. Daniele to make such disclosures within fourteen
 16 (14) days of the Court's granting of the instant Motion. Plaintiffs further request that the Court
 17 order, at a minimum, payment by Mr. Daniele of Plaintiffs' reasonable attorneys' fees and costs
 18 incurred in making this Motion, as authorized by Fed.R.Civ.P. 37(a)(5)(A).

19 Dated this 31st day of January, 2012.

20 DICKINSON WRIGHT PLLC

21 By /s/ Jonathan M. A. Salls

22 STEVEN A. GIBSON
 23 Nevada Bar No. 6656
 24 JONATHAN M. A. SALLS
 25 Nevada Bar No. 12085
 26 City Center West
 27 7201 West Lake Mead Boulevard, Suite 503
 28 Las Vegas, Nevada 89128

CERTIFICATE OF SERVICE

Pursuant to Local Rule 5 of this Court, I certify that I am an employee of Dickinson Wright PLLC and that on this 31st day of January, 2012, I caused a correct copy of the foregoing **Plaintiffs' Motion to Compel Brian Daniele's Initial Disclosures** to be served via United States first-class mail to:

Brian Daniele
7002 Braddock Mews Place
Springfield, Virginia 22151
In Proper Person

Pursuant to Local Rule 5 of this Court, I certify that I am an employee of Dickinson Wright PLLC and that on this 31st day of January, 2012, I caused a correct copy of the foregoing **Plaintiffs' Motion to Compel Brian Daniele's Initial Disclosures** to be served via CM/ECF to:

Gary Jay Kaufman, Esq.
The Kaufman Law Group
1901 Avenue of the Stars, Suite 1010
Los Angeles, California 90067

Chad Bowers, Esq.
Chad A. Bowers, Ltd.
3202 West Charleston Boulevard
Las Vegas, Nevada 89102

Attorneys for Defendant SBR Marketing Ltd.

/s/ Erin L. Wood

An employee of Dickinson Wright PLLC